2356.

SUPREME COURT OF THE UNITED STATES.

No. 204.

LESSEE OF IRWIN B. DOOLITTLE AND AL., PLFFS.,

vs.

LEVI BRYAN AND AL.

ON A CERTIFICATE OF DIVISION IN OPINION BETWEEN THE JUDGES OF THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF OHIO.

THE UNITED STATES OF AMERICA,
District of Ohio, ss.

At a circuit court of the United States, for the district of Ohio, begun and held at the city of Columbus, in said district, on the third Tuesday in the month of October, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States of America the 76th, before the honorable John McLean and the honorable Humphrey H. Leavitt, judges of said court; among other proceedings had were the following, to wit:

The lessee of IRWIN B. DOOLITTLE et al.
vs.
LEVI BRYAN et al.
} In ejectment.

In this case, the lessors of the plaintiff being citizens of Illinois, brought their action of ejectment to recover possession of one thousand acres of land in the State of Ohio; the declaration being duly served on the tenants in possession, they appeared and entered into the consent rule, and filed the general issue. On the trial two points arose, on which the opinions of the judges were opposed, to wit:

1. Whether a sale of land by a marshal, on a venditioni exponas, after he is removed from office, and a new marshal appointed and qualified, is void?
2. Whether such sale being returned to the court, and confirmed by